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July 25, 2024

By ECF

Hon. Jesse M. Furman
United States District Court for the
Southern District of New York
40 Foley Square
New York, New York 10007

Re: UMB Bank, N.A. v. Bristol-Myers Squibb Company, No. 21 Civ. 4897 (JMF)

Dear Judge Furman:

We represent defendant Bristol-Myers Squibb Company (“BMS”) in this action. I am submitting this letter motion to request that the Court order a short extension of a stipulated deadline for both parties to serve rebuttal expert reports given the conflict with that deadline that results from the request by plaintiff UMB Bank, N.A. (“UMB”) to reschedule the upcoming hearing on BMS’s motion to dismiss this action for lack of subject matter jurisdiction.

The deadline for the completion of expert discovery is October 30, 2024. [ECF No. 114]. In a stipulation and proposed order, the parties agreed to exchange rebuttal expert reports on August 23, 2024. [ECF No. 125]. The Court never “so ordered” that stipulation, but the parties have abided by its provisions since they agreed to it, including by exchanging opening expert reports on June 21, 2024. UMB served five opening expert reports then, and BMS served three opening expert reports. BMS currently is working with experts who are preparing rebuttal reports to be served by the stipulated August 23 deadline.

In its scheduling order last week, the Court set August 13, 2024 as the date for a hearing on BMS’s pending motion to dismiss this action for lack of subject matter jurisdiction, which is ten days before the stipulated deadline to serve rebuttal expert reports. BMS is available to attend the hearing on the date set by the Court, but UMB’s counsel is unavailable and has requested to reschedule the hearing to August 15, August 19, or August 22. [ECF No. 143]. BMS has no objection to rescheduling the hearing to one of those dates, but all of them are closer to the parties’



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stipulated deadline to exchange rebuttal expert reports than would be the case under the hearing schedule originally set by the Court, which is the reason for this letter motion.

BMS anticipates that its counsel will be working with its experts on the finalization of their rebuttal reports in the days leading up to the stipulated deadline. At the same time, its counsel will need to set aside significant time to prepare for the motion to dismiss hearing. The materials submitted by the parties in connection with the motion are voluminous, and the applicable case law is substantial and technically dense. The attention required to prepare for the hearing necessarily will take time away from working with expert witnesses to prepare their rebuttal reports.

For the foregoing reasons, BMS respectfully requests that the Court extend the deadline for both parties to serve their rebuttal expert reports until a date that is at least ten (10) days after the hearing date set by the Court on the pending motion to dismiss. This is BMS's first request for an extension of the rebuttal expert report deadline. In a conference call and subsequent pre-motion communications about this issue, UMB stated that it was not willing to agree to the requested extension.

Of Counsel:

Jessica A. Masella
Steven M. Rosato
Jessica P. Wright

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'John J. Clarke, Jr.', written over a horizontal line.

John J. Clarke, Jr.